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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/790,345	03/01/2004	Carla Schaefer	159.1.1355	9394

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WATOV & KIPNES, P.C.
P.O. Box 247
Princeton Junction, NJ 08550

EXAMINER
COLLINS, DOLORES R

ART UNIT	PAPER NUMBER
3711	

MAIL DATE	DELIVERY MODE
06/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/790,345	SCHAEFER ET AL.	
	Examiner	Art Unit	
	Dolores R. Collins	3711	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *4/21/08*.

2a)☒ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9 and 13-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9 & 13-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Examiner acknowledges the communication by applicant's representative received 4/21/08.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-6 & 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pollard (815) in view of Hopkins et al. (533).

Pollard discloses an Instant Bingo Game And Game Card Therefor.

Regarding claim 1

Claim 1 is simply a conventional scratch and win ticket where the indicia are in puzzle shapes with indicia thereon. The claimed invention is simply a conventional scratch and win ticket except for the specific arrangement and/or content of indicia (printed matter) set forth in the claim(s). Pollard discloses a functionally similar device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use any type since it would

only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate it will not distinguish the invention from the prior art in terms of patentability. *In re Gulack,* 217 USPQ 401, (CAFC 1983). The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an individual with a specific type of indicia does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Thus, there is no novel and unobvious functional relationship between the printed matter and the substrate, which is required for patentability.

Further, the simple idea of matching pieces, whether a puzzle piece, character, number or any form of indicia lends no patentable features and would be obvious to the ordinary skilled artisan to simply select any functional indicia with the Pollard device.

Alternatively:

Hopkins is used to illustrate the teaching of a jigsaw lottery system. Hopkins discloses a Multiple Jig-Saw Puzzle promotional Lottery Game And method Of Playing Same. Hopkins teaches a lottery game with a first play area having a plurality of jig-saw type puzzle pieces (see 10) and a second play area (18) having at least one play region (16 & 16a) with pieces in a pattern (i.e., two straight lines). Hopkins further teaches that his game is executed by the removal

of puzzle pieces which when matched with the first play area wins a prize (see claim 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pollard to include jigsaw puzzle design in order to add variety and excitement to game play.

Regarding claim 2

Hopkins teaches that his game is executed b the removal of puzzle pieces which when matched to a board in the first play area (see figures 1 & 2 and claims 1 & 2).

Regarding claim 3

Hopkins teaches a puzzle board that has cavities and compliments necessary for fitting a jigsaw puzzle together (see figure 2).

Regarding claim 4

Hopkins teaches a lottery ticket with a first play area having a plurality of jigsaw type puzzle pieces (see 10) and a second play area (18) having at least one play region (16 & 16a).

Regarding claim 5

Hopkins teaches a lottery ticket with a first play area having a plurality of jigsaw type puzzle pieces in individual spaces (see 10).

Regarding claim 6

Pollard teaches a scratch off ticket with multiple play areas each having the number of pieces per region is the same (see figure 1). Pollard fails to teach that his play area is made up of jigsaw pieces. Hopkins teaches a lottery game with a first play area having a plurality of jig-saw type puzzle pieces (see 10) and a second play area (18) having at least one play region (16 & 16a) with pieces in a pattern (i.e., two straight lines). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pollard to include jigsaw puzzle design in order to add variety and excitement to game play.

Regarding claims 13-15

Hopkins teaches a lottery ticket with a first play area having a plurality of jig-saw type puzzle pieces (see 10) and a second play area (18) having at least one play region (16 & 16a) with pieces in a pattern (i.e., two straight lines).

Regarding claim 16

Hopkins teaches that his puzzle pieces have "visual indications" on their faces (see col. 2, lines 53-55).

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pollard (815) in view of Hopkins et al. (533). and further in view of Bachman (153).

Regarding claim 7

Hopkins teaches a lottery ticket with a second play area (18) having at least one play region (16 & 16a). Hopkins fails to teach that the number of pieces per region is different. Bachman teaches two play regions. Bachman further teaches puzzle pieces of unequal numbers in his play region (see figure 24). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pollard in view of Hopkins to include an unequal number of pieces per play region to add an element of mystery to game play.

Regarding claims 8 & 9

Hopkins fails to teach a removable scratch off layer. Bachman discloses a Promotional Article With Pressure-Sensitive Adhesive Portions And Method Of Manufacture.

Bachman teaches a first area with removable portions and the ability to scratch off a layer (see col.7, lines 7-11). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pollard in view of Hopkins to include a removable layer that may be scratched off to add an element of mystery to game play.

Response to Arguments

Applicant's arguments filed 4/21/08 have been fully considered but they are not persuasive. Applicant has amended independent claim 1 to include language addressing the shape, form and the inclusion of additional indicia. This amendment merely addresses design issues that would present little or no difficulty to one skilled in the art and/or printed matter issues that are not patentable.

Applicant is invited to schedule a telephone interview to better articulate subject matter that he considers patentable.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ***Dolores R. Collins*** whose telephone number is ***(571) 272-4421***. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ***Eugene Kim*** can be reached on ***(571) 272-4463***. The fax phone number for the organization where this application or proceeding is assigned is ***571-273-8300***.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at ***866-217-9197*** (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call ***800-786-9199*** (IN USA OR CANADA) or ***571-272-1000***.

6/22/08

/Dolores R. Collins/

Examiner, Art Unit 3711

/Gene Kim/

Supervisory Patent Examiner, Art Unit 3711